

**SEALED**CLERK'S OFFICE U.S. DIST. COURT  
AT ABINGDON, VA  
FILED

## UNITED STATES DISTRICT COURT

JUN 12 2019

for the  
Western District of VirginiaJULIA C. BUDLEY, CLERK  
BY: *A. Rust*  
DEPUTY CLERKIn the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)Information associated with Facebook user Carl Lee  
DAVIS Jr. with Facebook ID: 100002307110494 that is  
stored at premises controlled by Facebook

Case No. 2:19mj16

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the Northern District of California, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
Title 21, USC, Section 846	Conspiracy to Distribute Controlled Substances

The application is based on these facts:

See Attachment C

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

*RTG*

Applicant's signature

Special Agent Ryan Temm

Printed name and title

Sworn to before me and signed in my presence.

Date: 6/12/19

City and state: Abingdon, VA

*Pamela Meade Sargent*

Judge's signature

Honorable Magistrate Judge Pamela Meade Sargent

Printed name and title

**ATTACHMENT A**

**Property to be searched**

This warrant applies to information associated with Facebook user Carl Lee DAVIS Jr. with Facebook ID carl.davis.1088 (Account #100002307110494) that is stored at premises owned, maintained, controlled, or operated by Facebook Inc., a company headquartered in Menlo Park, California.

## **ATTACHMENT B**

### **Particular Things to be Seized**

#### **I. Information to be disclosed by Facebook**

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook Inc. ("Facebook"), including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

- (a) All contact and personal identifying information, including full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them to include "Facebook Live" videos;
- (d) All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments;

gifts; pokes; tags; and information about the user's access and use of Facebook applications;

- (e) All other records of communications and messages (electronic communication information) made or received by the user, including all private messages, chat history, video calling history, and pending "Friend" requests;
- (f) All "check ins" and other location information;
- (g) All IP logs, including all records of the IP addresses that logged into the account;
- (h) All records of the account's usage of the "Like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has "liked";
- (i) All information about the Facebook pages that the account is or was a "fan" of;
- (j) All past and present lists of friends created by the account;
- (k) All records of Facebook searches performed by the account;
- (l) All information about the user's access and use of Facebook Marketplace;
- (m) The types of service utilized by the user;
- (n) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);
- (o) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (p) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

## **II. Information to be seized by the government**

Upon receipt of the information from Facebook described in Section I of Attachment B, government authorized persons will review that information to locate the items described below.

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of Title 21 U.S.C. § 846, and 18 U.S.C. § 924(c) and involving Carl Lee DAVIS Jr. including, for each user name identified on Attachment A, information pertaining to the following matters:

- (a) Communications (e.g. posts and messages (public and private), friend requests etc.) between Carl Lee DAVIS Jr. and any other potential suspects/witnesses.
- (b) Evidence indicating how and when the Facebook account was accessed or used, to determine the chronological and geographic context of account access, use, and events relating to the crime under investigation and to the Facebook account owner;
- (c) Evidence indicating the Facebook account owner's state of mind as it relates to the crimes under investigation;
- (d) The identity of the person(s) who created or used the user ID, including records that help reveal the whereabouts of such person(s).

**AFFIDAVIT IN SUPPORT OF**  
**AN APPLICATION FOR A SEARCH WARRANT**

I, Ryan C. Temm, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application for a search warrant for information associated with a certain Facebook user ID that is stored at premises owned, maintained, controlled, or operated by Facebook Inc. ("Facebook"), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the user ID.
2. I am an investigative law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18 United States Code, and am empowered by law to conduct investigations and to make arrests for the offenses enumerated in Section 2516 of Title 18 United States Code.
3. I am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and have been employed for approximately ten and a half years (10.5) years. I received my training with the Federal Law Enforcement Training Center (FLETC), and the ATF at the National Academy in Brunswick, Georgia. At the ATF National Academy we trained in various investigative techniques to include preparing a proper search warrant. Since becoming a Special Agent with ATF, I have participated on numerous search and arrest warrants. I have a Bachelor of Arts Degree in Criminal Justice from The George Washington University and a Master of Public Administration from the University of North Carolina at Charlotte. I also successfully completed a basic law enforcement academy with the Charlotte-Mecklenburg Police Department and served nearly eight years as a police officer.
4. Based on my training and experience I have become familiar with methods used by traffickers to smuggle and safeguard narcotics, to distribute narcotics, and to collect and launder proceeds. The affiant is aware of the sophisticated tactics they routinely use to attempt to thwart detection by law enforcement which include the utilization of numerous different cellular telephones, counter surveillance, elaborately planned distribution

schemes, false or fictitious identities and coded communications and conversations.

5. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.
6. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of 21 USC 846, Conspiracy to Possess with Intent to Distribute Methamphetamine, have been committed by Carl Lee DAVIS Jr. and others. There is also probable cause to search the information described in Attachment A for evidence of these crimes and contraband or fruits of these crimes, as described in Attachment B.

#### **PROBABLE CAUSE**

7. On October 15, 2018, a Lee County Sheriff's Office (LCSO) deputy conducted a vehicle stop of the vehicle Carl Lee DAVIS Jr. (henceforth referred to as DAVIS or Carl Lee DAVIS) was operating. During a search of the vehicle methamphetamine and drug paraphernalia were located. A Virginia Forensic Science Laboratory examination determined 2.4042 grams of methamphetamine (henceforth referred to as meth) was present.
8. On November 1, 2018, Virginia State Police (VSP) Special Agent (SA) Jason Nichols and Southwest Drug Task Force (SWDTF) Agent J.T. Coleman interviewed CS1. CS1 stated DAVIS is Travis Pennington's cousin and he (DAVIS) is moving a ½ pound of meth a day. Tony McClellan owes a drug debt of \$25,000 to DAVIS. CS1 stated DAVIS adds Fentanyl and heroin to his dope. DAVIS and Josh Davis (large Tennessee source) have made numerous \$25,000 meth deals.
9. On December 17, 2018, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) SA Ryan Temm and Wise County Sheriff's Office investigator Sergeant Charles Curry interviewed CS2 at the Southwest Virginia Regional Jail, Duffield. CS2 said one of Travis Pennington's meth sources is DAVIS of Shepherd Hill in Keokee. CS2 said the only other person they know who can deal with DAVIS is Susan Mullins.
10. On January 14, 2019, ATF SA Ryan Temm and SWDTF Agent Clint Johnson interviewed CS3 at the Scott County Courthouse. CS3 said DAVIS of Keokee is a large supplier of meth. CS3 said he/she has known him for a number of years. During four or five months in the summer of 2018, CS3 said they took Jimmy "Booger" Shupe to

DAVIS's many times. Shupe usually bought a ¼ pound of meth or more at a time. CS3 said in addition to Shupe, Matt Scott and Dale Jones buy meth from DAVIS. CS3 said they had put money in five times to get themselves an 8-ball to half an ounce.

11. On February 15, 2019, ATF SA Ryan Temm, Drug Enforcement Administration (DEA) Task Force Officer (TFO) Brandon Johnson and SWDTF Agent Clint Johnson interviewed CS4 at the Scott County Sheriff's Office. CS4 said DAVIS is selling a lot of meth right now. CS4 said DAVIS will hide his meth in the carport on top of the a/c unit. She knows DAVIS sells to Jimmy "Booger" Shupe, who cuts his meth with PVP and Molly he buys online.
12. On February 20, 2019, ATF SA Ryan Temm and SWDTF Agent Larry Mullins interviewed CS5 at the United States Attorney's Office (USAO) in Abingdon, VA. CS5 said he/she middle-manned 9 to 12 deals between Vaughn (large Roanoke source), Travis Pennington and Jamie Christian. CS5 said he/she believed DAVIS was also putting up money. CS5 stated the people they know Pennington was selling meth to are: Lewis Hickman, Travis Skaggs, Joe Hobbs, Carl Lee DAVIS (CS5 saw DAVIS bring money to Pennington at CS5's house), Jamie Christian, James "Stix" Johnson, Michael Turner, Susan Mullins and Jonathan Funk.
13. On February 26, 2019, ATF SA Ryan Temm and SWDTF Agent Clint Johnson interviewed CS6. CS6 said on January 16, 2018 he/she and others including, Susan Mullins and Stephanie Carroll all drove to a residence in Keokee on Shepherd Hill. From the description agents know this to be the residence of Carl Lee DAVIS. CS6 said the purpose for going there was for Mullins and Carroll to purchase meth. CS6 said DAVIS is where the large amounts of meth are coming from at the moment. Upon their arrival, CS6 said Mullins went into the house. She eventually came out with a man CS6 did not know, who was carrying an AR-15. The man appeared very paranoid to CS6. CS6 said they all talked, meanwhile a silver Ford sedan (possibly a Fusion) with two females in it had been circling on the road below. The man told Mullins to go to the mailbox to check for his money. Mullins told him there was not any money in the box, CS6 said he accused them of stealing, pointed the gun at them and searched them and the car. CS6 said Mullins knew the people in the silver car and messaged them. They came back by and deposited the money in the box. She said the man was then ok. CS6 believes Carroll purchased \$1,200 worth of meth and Mullins purchased \$600 worth of meth. This man in Keokee is also source for Tony McClellan, CS6 said. During the



above trip, the man told Mullins "Tony" needs to bring him his \$1,600 because he (Tony) shorted him last time.

14. On March 5, 2019, ATF SA Ryan Temm and SWDTF Agents Larry Mullins and Kenneth Hill interviewed CS7 at the Wise County Sheriff's Office. CS7 said Joshua "Bacon" Sutherland sells meth and his source from about June to August/September of 2018 was Jeremy Mallory of Exeter. CS7 said Mallory's source is Carl Lee DAVIS of Keokee. In the summer of 2018, CS7 waited down the road while Sutherland and Mallory went to DAVIS's to purchase meth. CS7 doesn't know how much meth Mallory or Sutherland got on this first occasion. CS7 stated on one occasion another person, an "old man," also waited in the wide spot down the road from DAVIS's. He had also given money to Mallory to get meth from DAVIS. CS7 thinks Sutherland got 3-4 ounces and Mallory had a gallon zip-lock bag with meth in it. CS7 said Sutherland never dealt with DAVIS alone. CS7 said he/she personally waited down the road from DAVIS's approximately 25-30 times while Sutherland and Mallory went to DAVIS's to get meth. They got at least 2-3 ounces each time. In August 2018, Tony McClellan and Sutherland began hanging out, supplying each other. CS7 said McClellan also buys from DAVIS. Sutherland has sent money with McClellan to buy meth from DAVIS.
15. On March 7, 2019, ATF SA Ryan Temm and Scott County Sheriff's Office Chief Deputy Pete Chambers interviewed CS8 at the Scott County Courthouse. CS8 said Susan Mullins and Tony McClellan have a child together. Mullins is living with DAVIS at the moment. CS8 said he/she has been to DAVIS's approximately 10 times with McClellan to buy drugs. CS8 always sat outside in the car. McClellan went inside and got a couple ounces each time. CS8 said McClellan and DAVIS had a falling out over Mullins and McClellan has not been back in some time. CS8 said DAVIS and McClellan had made a deal for McClellan to trade DAVIS a washer and dryer for meth. Mullins got wind of this and went to get the washer and dryer before McClellan and traded them to DAVIS for the meth. CS8 said DAVIS's meth source had been busted so Mullins called McClellan telling him DAVIS needed a hook-up. McClellan told her to call Josh Sutherland. CS8 said, in chronological order, McClellan's sources since he/she has known him were/are: DAVIS, a guy in Knoxville, Brandy Hamilton, Susan Mullins, Connie LNU and lastly back to Mullins.
16. On March 21, 2019, ATF SA Ryan Temm, DEA TFO Brandon Johnson and SWDTF Agent Clint Johnson interviewed CS9 at the Scott County Sheriff's Office. CS9 said they know others would also trip with Pennington to Kentucky to pick up meth.

Between CS9 and these others Pennington was going to pick up meth on a daily basis. These others included: Jimmy "Booger" Shupe, Jeremy "Moose" Muse, Jeremy Mallory, Travis Skaggs, Sam Caudill, Tommy Russell, Anthony Holmes and Carl DAVIS. CS9 said in 2016 he/she went to Georgia with Jamie Christian and James Johnson. They picked up a pound of meth. Travis Pennington, DAVIS and Joe Hobbs had also put money in on the pound. CS9 said in addition to Steven Eisenmenger, "Boss," Barry Hall, Josh Sutherland and DAVIS also supplied PENNINGTON with meth. CS9 said the following people can buy meth directly from DAVIS at his house: Jimmy Shupe, Susan Mullins, Tony McClellan, Travis Pennington and Sam Caudill. Christian would take money from CS9, Pennington, DAVIS, Johnson, Eric and Jeremy Mullins and would get meth from David "Rabbit" Kaywood. CS9 said right now the big meth movers are DAVIS and Susan Mullins. DAVIS hides his meth outside, has cameras everywhere and has "tons" (20-30) of guns in a back room, he/she has seen him with pounds of meth at a time.

17. On March 22, 2019, ATF SA Ryan Temm and SWDTF Agents J.T. Coleman and Clint Johnson interviewed CS10 at the Southwest Virginia Regional Jail, Duffield. CS10 said they only dealt with Susan Mullins a couple times after she (Mullins) and McClellan broke up, for small amounts (quarter ounces). CS10 said DAVIS might have been McClellan's supplier, they have heard of DAVIS through Mullins.
18. On April 4, 2019, ATF SA Ryan Temm and SWDTF Agent Clint Johnson interviewed CS11 at the Scott County Sheriff's Office. CS11 said the only person with weight right now is Carl Lee DAVIS of Keokee. CS11 stated he/she has been dealing directly with DAVIS since July 2018 and has been buying an ounce of Ice (crystal meth) a day for \$700 from October to present. CS11 said in total they purchased meth from DAVIS for about three months. CS11 said he/she could go in DAVIS's house to deal, but before that DAVIS would leave the meth in the mailbox at the bottom of his drive. CS11 said between him/her and his/her partner they got 2 ounces of meth a day from DAVIS. They were spending \$1,400 a day. CS11 would also go in on deals with Jimmy Shupe. CS11 stated DAVIS carries a gun and has seen him with an AR-type rifle. DAVIS has at least ten guns at his house. CS11 said they have seen at least that many different guns. CS11 said DAVIS has said he will take guns for trade on meth. CS11 said there are very few people who can deal face-to-face with DAVIS. The people CS11 knows who can are: Jimmy Shupe, Becky Light, Tony McClellan, Jeremy Mallory and CS11. CS11 said they believe DAVIS has switched to a different supplier recently as the meth

used to be wetter. The night before CS11's arrest he/she had been to DAVIS's and gotten two ounces and this is the meth they were caught with.

19. On April 5, 2019, ATF SA Ryan Temm and SWDTF Agent Clint Johnson interviewed CS12 at the Scott County Sheriff's Office. CS12 said they have seen guns at DAVIS's, specifically a big black gun that another person told him/her was an AR. CS12 said they have only personally bought meth from DAVIS on four occasions. Initially, CS12 said they had only bought from him twice, then three times and finally four times. The first time CS12 bought from DAVIS the meth was in the mailbox. The second time, CS12 was alone, the third time Rikki Capps was with him/her and the fourth time CS11 was with him/her. CS12 said DAVIS won't deal with CS11 as they went to school together. When CS12 originally was dealing with DAVIS it was through Susan Mullins. CS12 had met her at a party in Big Stone Gap. Mullins told CS12 if they needed anything to call her and asked if CS12 knew "Bub" (DAVIS). CS12 said he/she knew Mullins knew DAVIS and CS12 thought that if DAVIS learned he was selling to CS12 through Mullins he would eventually deal directly with CS12 so CS12 could cut out the middleman (Mullins). For about 2.5 months (Jan to mid-March 2019), CS12 said he/she took Mullins to DAVIS's to buy meth at least twice a week, probably more. Between the two of them, they got a total of 2-3 ounces, of which CS12 said 1/2 ounce to an ounce was his/hers. DAVIS's price was \$700/ounce. CS12 said DAVIS and Mullins went to Las Vegas sometime in the last couple weeks (mid-March) and when they got back DAVIS cut Mullins off. Mullins told CS12 DAVIS gets his meth from a Kingsport source. CS12 said DAVIS is extremely paranoid and has cameras everywhere. CS12 said the period during which he/she and Mullins went to DAVIS's was January to mid-March. After mid-March, CS12 went to their source in Kentucky. Kentucky was out twice when CS12 bought from DAVIS. The first time CS12 got a whole ounce and the person CS12 was with got a 1/4 and 1/2 ounce and the second time they both got ounces. DAVIS told CS12 he only had three people dealing for him: Shupe, CS12 and one other person. CS12 said DAVIS always has the meth ready to go when he/she gets there (to his house). CS12 does not know where he keeps it.

20. On April 11, 2019, ATF SA Ryan Temm and SWDTF Agent Bucky Culbertson interviewed CS13 at the SWDTF office. CS13 said he/she bought meth from Carl Lee DAVIS 5-10 times, an ounce at a time, after May 2018. CS13 said he/she met DAVIS through Tony McClellan. CS13 said McClellan was mad at them for going directly to DAVIS because he couldn't buy from DAVIS anymore because he owed him money.

CS13 said DAVIS was also mad at McClellan because McClellan never gave him his meth fast enough after going to pick it up for him. CS13 said most of the meth McClellan was getting was bought with DAVIS's money. On one of the Knoxville trips CS13 said they met DAVIS on Hoot Owl Hollow and DAVIS gave McClellan money for the meth McClellan was tripping to pick up. CS13 said he/she met Susan Mullins at Anthony Marshall's. Mullins told CS13 she bought meth from DAVIS or she got it from McClellan. CS13 said his/her major sources of meth was first DAVIS and then "Boss" and Dwayne LNU in Knoxville.

21. On April 25, 2019, ATF SA Ryan Temm and SWDTF Agent Larry Mullins interviewed CS14. CS14 said he/she was selling meth for Joe Freeman. CS14 said he/she was at his trailer one day (in August 2018) when Freeman's source came to re-up. This source was Carl Lee DAVIS. CS14 said he/she was in the bedroom when they did the deal. CS14 said DAVIS took out his handgun and laid it on the dresser. There was no talking, DAVIS put the meth on the scale and Freeman gave him the money. CS14 believed he/she saw at least a half ounce. They all hung out and smoked meth. Other than seeing DAVIS, this time CS14 said he/she has only been to DAVIS's house twice to pick up meth himself/herself. The first time CS14 went to DAVIS's house was with James Laforce. This was about a week after meeting DAVIS at Freeman's. Laforce was going to DAVIS's and CS14 rode with him. CS14 said he/she sat in the vehicle at first, but DAVIS waved him/her to come in after their deal was done. CS14 believes Laforce got about half an ounce. CS14 said Laforce gave him/her 3-4 grams and DAVIS gave him/her 2-3 grams. CS14 said he/she again saw DAVIS with the gun he/she had seen him carrying while at Freeman's. The second time CS14 went to DAVIS's he/she was with Shana Hall. It was Hall's deal, but he/she had \$50 in it. There was also another male with them, but CS14 couldn't remember his name. CS14 said he/she and Hall went in the house, but the male sat in the car. Hall did the deal, but CS14 said he/she watched. CS14 said he/she saw the same handgun he/she saw on the two previous occasions. He carries it for intimidation, CS14 said.
22. On April 24, 2019, ATF SA Ryan Temm and SWDTF Agent J.T. Coleman interviewed CS15 at the Sullivan County Jail. CS15 said he/she sold a pound of meth to Carl Lee DAVIS on three occasions. Travis Pennington had brought DAVIS to the Americourt to meet him/her.

23. On May 2, 2019, SWDTF agents Larry Mullins and Kenneth Hill interviewed CS16.

to a guy named Carl in Keokee, VA. Shepherd and Sutherland put up the money and got a ¼ pound of Ice. CS16 stated he/she couldn't remember a lot about the trip because he/she was under the influence of Ice at the time.

24. On April 24, 2019, SWDTF Agent Larry Mullins interviewed CS17. CS17 stated he/she has known Tony McClellan for approximately 20 years and during that time he/she has purchased from and sold prescription narcotics to McClellan and has used marijuana on occasion with him. CS17 stated during late summer 2018 McClellan took him/her and Brandy Hamilton to a single-wide trailer in Keokee, VA occupied by a white female named Jessica (Honeycutt), who was referred to as Travis's (Pennington) ex-wife. CS17 stated he/she and Hamilton provided McClellan with \$600 each and McClellan had his own money, but he/she was unsure of the amount. McClellan left them at Jessica's and went to see Carl Lee DAVIS. CS17 stated McClellan returned with a quarter pound of Ice. CS17 stated he/she and Hamilton each received an ounce. CS17 stated not long after, McClellan took him/her and Hamilton to Jessica's again and repeated the same transaction. CS17 stated he/she has provided money to Susan Mullins and later she would return with Ice claiming she purchased it from Carl Lee DAVIS. CS17 said the Ice coming from DAVIS has a yellow or brownish tint to it. CS17 stated the following people were purchasing Ice straight from DAVIS: Susan Mullins, Brandy Hamilton, Tony McClellan, Allie Bates/Raines and Joe Hobbs.

25. On May 7, 2019, ATF SA Ryan Temm and SWDTF Agent Clint Johnson interviewed CS18 at the Southwest Virginia Regional Jail at Duffield. CS18 stated he/she has known Carl Lee DAVIS his/her whole life, but has only been dealing with him regarding purchasing meth the last couple years. CS18 thinks DAVIS's source of supply are "Mexicans." CS18 said from May 2018 up to the day before he/she was arrested (end of April) he/she has bought an ounce of meth from DAVIS once to twice a week. DAVIS charges CS18 \$700-800 an ounce. CS18 said there are guns all over DAVIS's house. DAVIS has 20-30 guns, CS18 estimated. There is a loaded gun in every chair and DAVIS always has one on him, CS18 said. CS18 said he/she has seen DAVIS use meth and has used it with him. CS18 estimated DAVIS is spending \$17,000-20,000 on meth every week. CS18 said, in addition to himself/herself, DAVIS also sells to Travis Pennington, Misty Nelms and Jeremy Mallory.

26. On May 8, 2019, ATF SA Ryan Temm and SWDTF Agent Clint Johnson interviewed CS19 at the Southwest Virginia Regional Jail at Duffield. CS19 said Nelms's meth comes from Carl Lee DAVIS or from Kingsport. DAVIS is Travis Pennington's cousin

and he/she has known him for twenty years, but has never bought any meth directly from him. CS19 knows DAVIS has also sold meth to Tony McClellan.

27. On May 10, 2019, ATF SA Ryan Temm and SWDTF Agent Larry Mullins interviewed CS20. CS20 said Joseph "Cracker" Flannery took him/her to a house on a hill in Keokee every couple of days for about two months to pick up meth. CS20 said he/she doesn't know the name of the person from whom Flannery was buying at this residence, but the name "Denise" came up on her phone when she tried to connect to Wi-Fi in the driveway. CS20 bought mostly an ounce each time for \$700-750. When Flannery took him/her he/she had to wait in the car at the bottom of the driveway. CS20 said Bates also took him/her to this house and he/she still had to wait in the car, but Bates drove to the top of the driveway. They were there with a female and they both waited in the car while Bates went into the house. CS20 said he/she bought an ounce. CS20 said he/she remembers one time he/she bought bluish-tinted, wet meth from the house in Keokee, Pennington and Bates. He/she believed this was out of one batch of meth and they had all gotten it from the same source.
28. On May 21, 2019, SWDTF Agents Larry Mullins and Matt Russell interviewed CS21. Prior to the interview Agents Mullins, Russell and J.T. Coleman travelled with CS21 to Keokee, VA. CS21 pointed at and identified Carl Lee DAVIS's residence as 525 Shepherd Hill Road Keokee, VA. 24265. CS21 stated this is the same residence he/she provided the following information about. CS21 stated around the beginning of December 2018 he/she made plans to visit a subject known as "JR," who is currently incarcerated, and Lacey Holmes in Johnson City, TN. CS21 stated he/she received a phone call from Holmes prior to leaving his/her residence. Holmes instructed CS21 to meet a male subject at the Burger King in Big Stone Gap. Holmes told CS21 the male subject would check the oil in his/her vehicle and then place a package in the vehicle for him/her to deliver and for CS21 not to touch it. Holmes never told CS21 who the male subject was or anything about him. CS21 stated he/she and Lizzy Johnson arrived at Burger King before the male subject. CS21 stated the male subject, who he/she later determined to be Carl Lee DAVIS, arrived. CS21 stated DAVIS checked the oil in his/her vehicle and then put a package in his/her vehicle advising him/her not to touch it. CS21 stated he/she and Johnson left and delivered the package to JR and Holmes at a motel room, possibly at the Best Western off Exit 23 in Johnson City, TN. CS21 stated JR took the package to the back part of room, but he/she saw a rig (syringe) sticking out of it. CS21 stated JR gave him/her an 8-ball of methamphetamine for making the



delivery. CS21 stated he/she gave a small portion to Johnson. CS21 stated once he/she got home he/she used some of the meth and sold the rest. CS21 stated soon after Christmas 2018 he/she drove Lacey Holmes to a residence on Shepherd Hill Road in Keokee, VA. CS21 stated he/she later found out this was Carl Lee DAVIS's residence. CS21 stated upon arriving Holmes went into the residence and convinced DAVIS to let CS21 come inside. CS21 stated Holmes came back out and brought him/her into the residence. CS21 stated before he/she purchased narcotics from DAVIS he searched him/her, instructing him/her to place her earrings in water, and scanned him/her with some type of electronic device that detected signals. CS21 stated Holmes purchased an indeterminate amount of methamphetamine from DAVIS. CS21 stated he/she purchased half an 8-ball from DAVIS for \$60. CS21 stated DAVIS weighed the meth on a digital scale and left it on the scale. CS21 stated he/she laid the money down on the kitchen counter and then picked the meth up off the scale. CS21 stated Holmes used some meth prior to leaving. CS21 stated he/she saw a large amount, over an ounce, of meth in a plastic bag while inside residence. CS21 stated on either the 20<sup>th</sup> or 24<sup>th</sup> of April 2019 he/she video called DAVIS through Facebook. CS21 stated during the call he/she told DAVIS he/she was on his/her way to his house alone. CS21 stated upon arriving DAVIS met him/her at the gate of his residence and told him/her he/she couldn't go inside that Susan was in the house. CS21 stated he/she never saw Susan, but assumed it was Susan MULLINS because DAVIS and she had recently been to Las Vegas together. CS21 stated DAVIS pulled his shirt up and showed him/her a black semi-automatic handgun in his waistband. CS21 stated DAVIS had him/her step out of the vehicle and scanned him/her and the vehicle with the same device he had used previously. CS21 stated DAVIS and he/she got into a gold Mercedes (CS21 showed picture of car from DAVIS's Facebook). DAVIS placed approximately 2 grams of methamphetamine on the console of the vehicle. CS21 stated he/she laid \$60 down on the console and then picked up the meth. CS21 stated DAVIS told him/her to do a line of meth to prove he/she wasn't a snitch and his comment was "snitches can't do dope." CS21 stated he/she used some of the meth to prove him wrong. CS21 stated he/she left and did some more of the meth when he/she got home and then sold the rest. CS21 stated on May 18, 2019, he/she and Kristy Salyers went to DAVIS's residence. CS21 stated when they arrived DAVIS searched him/her and used the same electronic device to scan him/her. Salyers performed oral sex on DAVIS in exchange for

stated he/she saw the same black semi-automatic handgun laying on the couch. CS21 stated he/she saw a huge safe in the bedroom. CS21 stated he/she did not use or purchase any meth this time. CS21 stated he/she and Salyers left.

29. On June 4, 2019, ATF agents, local and state law enforcement executed a federal search warrant at DAVIS's residence. During the search agents recovered 20 firearms, approximately \$26,500 in US currency and approximately 400 grams of suspected methamphetamine. DAVIS was provided his Miranda warning, which he waived, and made the following statement: DAVIS stated one of his meth sources is in Kingsport and his name is Josh "Boss" DAVIS. Carl DAVIS said he communicates with Josh DAVIS via Facebook Messenger for the purpose of buying meth.
30. On May 15, 2019, I secured a federal search warrant for the Facebook account maintained by Misty NELMS. On June 6, 2019 Facebook returned the results of the request. I have attached in Attachment D a portion of the conversations between DAVIS and NELMS.
31. Through participation in this investigation, I have knowledge DAVIS maintained a Facebook account to communicate with other Facebook users about the distribution of methamphetamine. A review of Facebook public records indicate Facebook user Carl Lee DAVIS Jr. maintains a Facebook account with a user identification number of 100002307110494.
32. On April 4, 2019, a preservation request was sent to Facebook Inc. to preserve data associated with the account.
33. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.
34. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites and other personal identifiers. Facebook also assigns a user identification number to each account.
35. Facebook users may join one or more groups or networks to connect and interact with



other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events and birthdays.

36. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.
37. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post "status" updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming "events," such as social occasions, by listing the event's time, location, host, and guest list. In addition, Facebook users can "check in" to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user's profile page also includes a "Wall," which is a space where the user and his or her "Friends" can post messages, attachments and links that will typically be visible to anyone who can view the user's profile.
38. Facebook allows users to upload photos and videos. It also provides users the ability to "tag" (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook's purposes, the photos and videos associated with a user's account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.
39. Facebook users can exchange private messages on Facebook with other users. These

messages, which are similar to e-mail messages, are sent to the recipient's "Inbox" on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

40. If a Facebook user does not want to interact with another user on Facebook, the first user can "block" the second user from seeing his or her account.
41. Facebook has a "like" feature that allows users to give positive feedback or connect to particular pages. Facebook users can "like" Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become "fans" of particular Facebook pages.
42. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.
43. Each Facebook account has an activity log, which is a list of the user's posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as "liking" a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user's Facebook page.
44. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs ("blogs"), or to import their blogs from other services, such as Xanga, Live Journal, and Blogger.
45. The Facebook Gifts feature allows users to send virtual "gifts" to their friends that appear as icons on the recipient's profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other "pokes," which are free and simply result in a notification to the recipient that he or she has been "poked" by the sender.
46. Facebook also has a Marketplace feature, which allows users to post free classified ads.

Users can post items for sale, housing, jobs, and other items on the Marketplace.

access to thousands of other applications on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user's access or use of that application may appear on the user's profile page.

48. Facebook uses the term "Neoprint" to describe an expanded view of a given user profile.

The "Neoprint" for a given user can include the following information from the user's profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications.

49. Facebook also retains Internet Protocol ("IP") logs for a given user ID or IP address.

These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user's IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

50. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's "Neoprint," IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the

Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to "tag" their location in posts and Facebook "friends" to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner's state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner's motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

51. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

#### **INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

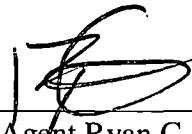
52. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment

B, government-authorized persons will review that information to locate the items

**CONCLUSION**

53. Based on the forgoing, I request that the Court issue the proposed search warrant.
54. This Court, the United States District Court for the Western District of Virginia, has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A).
55. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

Respectfully submitted,

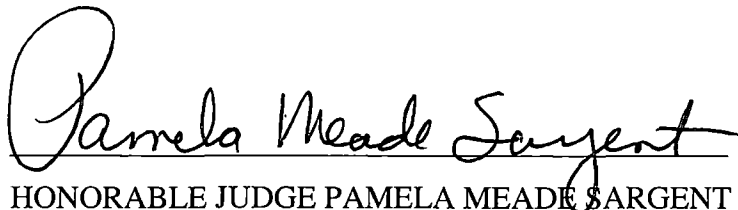


Special Agent Ryan C. Temm

Bureau of Alcohol, Tobacco, Firearms, and  
Explosives

United States Department of Justice

Subscribed and sworn to before me on June 12, 2019



HONORABLE JUDGE PAMELA MEADE SARGENT  
UNITED STATES MAGISTRATE JUDGE IN THE  
WESTERN DISTRICT OF VIRGINIA

## ATTACHMENT D

Facebook conversations between Misty NELMS and Carl Lee DAVIS Jr.

<u>Date</u>	<u>Time</u>	<u>Sender Name</u>	<u>Recipient Names</u>	<u>Content</u>
12/8/2018	17:33:23	Misty Nelms	Misty Nelms; Carl Lee Davis	Hey can i come see u... like not rushing u but it has went faster than expected today
12/8/2018	18:39:54	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Why did u get cussed out over me
				He said u emailed him or something.. then asked if i had seen u. I said yeah u told me to talk to him about your bond shit and diesel ... then he said i fn knew ud be fucking as soon as i got locked up. I cussed him told him he was an ungrateful asshole and hung up on him
12/8/2018	18:43:16	Misty Nelms	Misty Nelms; Carl Lee Davis	Damn hes fucking nuts. But Beth is here , ill get it outside it min
12/8/2018	18:45:05	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Ok. I just left his house and fed diesel. So ill chill in benfield or something if its not gonna be
12/8/2018	19:02:14	Misty Nelms	Misty Nelms; Carl Lee Davis	
12/8/2018	20:08:13	Carl Lee Davis	Misty Nelms; Carl Lee Davis	How much
12/8/2018	20:20:54	Misty Nelms	Misty Nelms; Carl Lee Davis	1 should hold me.
12/8/2018	21:55:37	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Beth busted me so its harder now. She seen ur message pop up in notifications
<u>Date</u>	<u>Time</u>	<u>Sender Name</u>	<u>Recipient Names</u>	<u>Content</u>
3/4/2019	19:21:12	Misty Nelms	Misty Nelms; Carl Lee Davis	I miss you already
3/4/2019	19:22:05	Carl Lee Davis	Misty Nelms; Carl Lee Davis	I bet
3/4/2019	19:22:28	Carl Lee Davis	Misty Nelms; Carl Lee Davis	I left u like 5 n 1/2
				I aint even telling boog where, when u ready just go get em n ill let u know where then or now
3/4/2019	19:23:35	Carl Lee Davis	Misty Nelms; Carl Lee Davis	either way
3/4/2019	22:56:23	Misty Nelms	Misty Nelms; Carl Lee Davis	Okay.
3/5/2019	18:19:28	Misty Nelms	Misty Nelms; Carl Lee Davis	I'm gonna need pretty quick
				Well just go to house n tell booger u gott get something, n slide that desk drawer out at its tucked up in there behind the top drawer , just leave top drawer closed n go in from underneat.
3/5/2019	18:33:49	Carl Lee Davis	Misty Nelms; Carl Lee Davis	N theres 1 1/2 in coffee pot beside fridge u might as well get
3/5/2019	18:34:34	Carl Lee Davis	Misty Nelms; Carl Lee Davis	That be it till friday so plan it out
3/5/2019	18:35:24	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Okay. I just left my house
3/5/2019	19:15:35	Misty Nelms	Misty Nelms; Carl Lee Davis	K
3/5/2019	20:00:26	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Leave money or keep it all?
3/5/2019	20:06:17	Misty Nelms	Misty Nelms; Carl Lee Davis	
3/5/2019	20:24:47	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Keep it

Date	Time	Sender Name	Recipient Names	Content
3/22/2019	11:09:52	Misty Nelms	Misty Nelms; Carl Lee Davis	Hey.... I'm confused. I was so tired I didn't pay attention to what we were doing. I owe u for 4 but how do I have another whole and half? I'm confused lol
3/22/2019	15:20:48	Carl Lee Davis	Misty Nelms; Carl Lee Davis	The other was a gift.
3/22/2019	15:38:26	Misty Nelms	Misty Nelms; Carl Lee Davis	Carl.. that's too much. But thank you so much.
3/22/2019	17:52:12	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Ur welcome! Im just thankful for all u do for me. So theres a 1000 bucks to put in ur pocket.
3/22/2019	17:58:21	Misty Nelms	Misty Nelms; Carl Lee Davis	Remember to save that money so we can get out while we can. Id like to look back 10 yrs from now n us both be thankful we both made it thru without going to jail.
				Yea I really hope so. But hell In 10 years you'll have done forgotten who I am. Lol
Date	Time	Sender Name	Recipient Names	Content
3/28/2019	18:22:10	Misty Nelms	Misty Nelms; Carl Lee Davis	I'm at the cans omw. I have 2 stacks. My cousin is with me if ya wanna get something ready for me.
3/28/2019	18:28:37	Misty Nelms	Misty Nelms; Carl Lee Davis	Omww now
3/29/2019	20:21:15	Misty Nelms	Misty Nelms; Carl Lee Davis	Sooo.... Paige is asking for a qtr... what do u think
3/29/2019	20:23:35	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Idk, on front?
3/29/2019	20:23:48	Misty Nelms	Misty Nelms; Carl Lee Davis	She just asked if I had it and how much
3/29/2019	20:25:35	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Myself. ] I wouldn't but u move aloft different then I do. It ain't worth the risk to make so ill on a seldom thing
3/29/2019	20:26:42	Misty Nelms	Misty Nelms; Carl Lee Davis	Yea considering my brother didnt get what was sent in the first place. I ain't doing it lol
3/30/2019	6:33:44	Misty Nelms	Misty Nelms; Carl Lee Davis	I need to see ya when u get up
3/30/2019	7:09:29	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Uh come on now bc Beth n bub will be here when I wake up probably, if I go to sleep.
3/30/2019	7:10:13	Carl Lee Davis	Misty Nelms; Carl Lee Davis	If I get feeling like I'm fall asleep I'll put it on dryer for u
3/30/2019	10:23:08	Misty Nelms	Misty Nelms; Carl Lee Davis	I just woke up
3/30/2019	11:15:21	Carl Lee Davis	Misty Nelms; Carl Lee Davis	K
3/30/2019	11:26:38	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Beth will be here in 45 mins. its on dryer , i got take a shower n stuff
3/30/2019	11:36:55	Misty Nelms	Misty Nelms; Carl Lee Davis	I am getting dressed and going out the door. Might wanna roll it over hill in something like once before
3/30/2019	11:45:34	Misty Nelms	Misty Nelms; Carl Lee Davis	I'm omw coming into dot
3/30/2019	11:46:54	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Holly fuck I just hope u beat her , if not I'll do something, as of now she's still in Pennington. I check on her



<u>Date</u>	<u>Time</u>	<u>Sender Name</u>	<u>Recipient Names</u>	<u>Content</u>
3/30/2019	11:47:56	Misty Nelms	Misty Nelms; Carl Lee Davis	Stall her lol run it down to stop sign on that one road or something lol
3/30/2019	11:53:47	Misty Nelms	Misty Nelms; Carl Lee Davis	Huge road check at dot but I'm coming into town now
3/30/2019	11:54:17	Carl Lee Davis	Misty Nelms; Carl Lee Davis	tonzi sent a voice message.
3/30/2019	11:54:51	Misty Nelms	Misty Nelms; Carl Lee Davis	Okay I'm hurrying lol
3/30/2019	11:54:56	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Ur fine
3/30/2019	12:02:09	Misty Nelms	Misty Nelms; Carl Lee Davis	I'm passing the cans now.
3/30/2019	12:02:20	Carl Lee Davis	Misty Nelms; Carl Lee Davis	Ur good then
3/30/2019	12:12:52	Misty Nelms	Misty Nelms; Carl Lee Davis	Kk
3/30/2019	12:25:16	Misty Nelms	Misty Nelms; Carl Lee Davis	\$\$ under helmet thing on dryer. get it lol
3/30/2019	12:26:08	Misty Nelms	Misty Nelms; Carl Lee Davis	Thank you a ton